

**SECRET**

PROTECTION OF CLASSIFIED INFORMATION  
ESSENTIAL ELEMENTS OF OFFENSES

- 50 USC 783(b) (1) unauthorized communication by employees of government or government-owned corporation
- (2) to "any other person" whom
- (3) employee knows or has reason to believe to be a foreign government's agent or a member of a Communist organization
- (4) if "information...classified...as affecting the national security."

(NOTE: It is probably not necessary that the recipient be actually an agent or Communist, so long as the employee has reason to believe, and does believe, he is when the information is communicated.)

- 50 USC 793(a) (1) Defendant need not be a government employee.
- (b)
- (c) (2) A necessary element of the offense is "intent or reason to believe that the information is to be used to the injury of the United States, or to the advantage of any foreign nation."
- (3) Prohibited acts include collection, copying and receipt of "anything connected with the national defense" and entry into "places connected with the national defense."

- 50 USC 793(d) (1) Lawful possession by the defendant of
- (2) information (in any form) "relating to the national defense," and
- (3) communication of same to "any person not entitled to receive it" or wilful retention on demand that it be returned to the government.

(NOTE: Information not reduced to specified tangible form is covered only if "the possessor has reason to believe (it) could be used to the injury of the United States or to the advantage of any foreign nation;" this is not the same as the requirement of the preceding section that the defendant intend to bring about particular consequences.)

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- 50 USC 793(e) Provisions as in (d), but pertaining to unlawful possession by the defendant. An affirmative duty to return the information to the government, without demand, is imposed and its breach is an offense.
- (f) (1) Lawful possession by the defendant of
- (2) information relating to the national defense (without the restriction expressed in the note to (d))
- (3) unauthorized removal of same from its place of custody or delivery to "anyone in violation of his (defendant's) trust", coupled with
- (a) gross negligence which resulted in the removal or delivery, or
- (b) knowledge that the removal or delivery has taken place and failure to make prompt report to his superior officer.
- (g) "If two or more persons conspire to violate any of the foregoing provisions of this section, and one or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be subject to the punishment provided for the offense which is the object of such conspiracy."
- 18 USC 794(a) (1) Communication, to any foreign government or faction thereof, of
- (b) (2) information relating to the national defense
- (3) "with intent or reason to believe that it is to be used to the injury of the United States or to the advantage of a foreign nation."
- (c) (1) Collection, or communication to anyone, in time of war
- (2) "with intent that the same shall be communicated to the enemy," of
- (3) "information relating to the public defense, which might be useful to the enemy."
- (d) (Conspiracy provision.)

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- 18 USC 798(a) (1) Prohibited acts are communication to an unauthorized person, publication, or "use in any manner prejudicial to the safety or interest of the United States or for the benefit of any foreign government to the detriment of the United States."
- (2) Protected material is classified information of a COMINT nature.
- (3) Defendant must "knowingly and willfully" do the act.
- (b) (Definitions) "classified information" - information which, at the time of violation, is, for reasons of national security, specifically designated by a United States Government Agency for limited or restricted dissemination or distribution.
- "unauthorized person" - any person who, or agency which, is not authorized to receive COMINT information by the President or by the head of an agency expressly designated by the President to engage in COMINT activities.
- (c) "Nothing in this section shall prohibit the furnishing, upon lawful demand, of information to any regularly constituted committee of the Senate or House of Representatives "of the United States of America or joint committee thereof."
- 18 USC 641 Provides punishment for "whoever embezzles, steals, purloins, or knowingly converts to his use or the use of another, or without authority, sells, conveys or disposes of any public record, voucher, money, or thing of value of the United States or of any department or agency thereof . . . or whoever receives, conceals, or retains the same with intent to convert it to his use or gain, knowing it to have been embezzled, stolen, purloined or converted."
- 18 USC 2071 Provides punishment for "whoever willfully and unlawfully conceals, removes, mutilates, obliterates, or destroys, or attempts to do so, or, with intent to do so takes and carries away any record, proceeding, map, book, paper, document or other thing, filed or deposited with "any clerk or officer of any court of the United States, or in any public office, or with any judicial or public officer of the United States."

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